D.B.CIVIL SPECIAL APPEAL (W) NO. 673/2007
Dr. S.R. Daga v. State of Rajasthan & Anr.

Date of order : 28.05.2007.

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Hanuman Choudhary for the appellant.

This special appeal is directed against the order of the learned Single Judge dated 12.4.2007 in S.B. Civil Writ Petition no.99/2006. The impugned order is a common order passed in 208 writ petitions which were preferred by various petitioners challenging their transfer from one post/place to another.

Transfer and postings are incidents of service and as held by the Supreme Court umpteen times, such orders can be interfered with by the High Court only when the order is violative of some statutory rule or is found to be grossly arbitrary or mala fide.

Counsel submitted that the transfer is bad as petitioner has not been paid transfer TA. We find no substance in the grievance, for transfer TA can be claimed from the place/post on the person joining it. Counsel submitted that case of the petitioner is covered by direction no.5 made by learned Single Judge as he has already filed representation. Direction no.5 runs as under :-

> "(5) In cases where the petitioners have been shown transferred in their transfer orders on their request which is factually incorrect. The respondents shall look into their record and if the plea of the petitioners is found correct, they will withdraw impugned order within two weeks."

On a bare reading, it is manifest that direction is applicable in cases where the person has been transferred on the ground of own request but without any such request by him. In such a case, the learned Single Judge observed, it is open to the person to make representation and if plea is found to be correct, the impugned order may be withdrawn.

The order of transfer dated 7.10.2006 in the case of the appellant simply states that he was being transferred from Government College, Kishangarh to Government College, Kekri, and we do not think that direction no.5 is applicable in his case. Representation on that ground is therefore of no avail to him and no relief can be granted to him in terms of direction no.5.

No violation of statutory rules is alleged nor it is shown that transfer is actuated by mala fide.

We do not find any merit in this appeal which is accordingly dismissed.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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